

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLARENCE J. FAULKNER,

Plaintiff,

V.

SHANE MAITLAND, *et al.*,

Defendants.

Case No. C08-5038RJB

ORDER

The Court, having reviewed Plaintiff's motion for entry of default (Doc. 17) and Plaintiff's request for appointment of counsel (Doc. 16), the pleadings filed in support and in opposition thereto, and the balance of the record, does hereby find and ORDER:

(1) There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.

Although the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. Moreover, it appears that this case does not involve exceptional circumstances which warrant appointment of counsel.

Accordingly, Plaintiff's Motion to Appoint Counsel is **DENIED**.

(2) The Federal Rules of Civil Procedure require defendants to answer a complaint within twenty (20) days from the date being served with the summons and complaint, or if service of the summons was timely waived, within sixty (60) days after the date when the request for waiver was sent. Fed. R. Civ. P. 12(a). If a defendant fails to respond within that time, a default judgment may be entered. Benny v. Pipes, 799 F.2d 489, 492 (9th Cir. 1986), *cert. denied*, 108 S.Ct. 198 (1987).

Here, Defendant filed an Answer on behalf of Defendant Harrell two days after Plaintiff's motion for entry of default was docketed in the record. Entry of default in this matter is not warranted.

Plaintiff's motion is **DENIED**.

DATED this 11th day of June, 2008.

/s/ J. Kelley Arnold
J. Kelley Arnold
United States Magistrate Judge